

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUSTIN BRUNO,
Petitioner,
-against-
SUPERINTENDENT, UPSTATE
CORRECTIONAL FACILITY,
Respondent.

No. 1:21-cv-06609 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

On May 9, 2024, Respondent filed a motion to dismiss the habeas petition in this action, arguing that the petition should be dismissed due to Petitioner's failure to prosecute. ECF No. 34. On May 14, 2024, the Magistrate Judge issued a report and recommendation (the "R&R"), recommending that Respondent's motion to dismiss be granted. ECF No. 37. The R&R noted that since Petitioner's November 9, 2021 letter requesting appointment of *pro bono* counsel, Petitioner has not communicated with the Court. *Id.* at 1-2. The R&R also noted that because mailings delivered to Petitioner's address were returned as undeliverable, the Magistrate Judge ordered Petitioner to update his address on the docket. *Id.*

On May 22, 2024, the Court declined to dismiss the Petition for failure to prosecute because: (1) the Court had not previously threatened dismissal of the Petition; and (2) Petitioner had not yet been afforded an adequate opportunity to respond to the motion to dismiss. ECF No. 38 at 2. The Court granted Petitioner an extension of time of until June 20, 2024 to file his opposition to Respondent's motion to dismiss. *Id.* The Court cautioned Petitioner "that failure to oppose the motion to dismiss may result in his Petition being dismissed in its entirety, especially given his nonresponsiveness over the years." *Id.* The

Court further cautioned Petitioner “that he must update his address of record to his current address so that the Court and Respondent can contact him.” *Id.*

To date, Petitioner has failed to oppose Respondent’s motion to dismiss. Additionally, Petitioner has not otherwise contacted the Court since November 2021. In light of the special leniency afforded to *pro se* litigants like Petitioner, the Court will grant Petitioner an additional extension of time to oppose Respondent’s motion to dismiss. *See Baptiste v. Sommers*, 768 F.3d 212, 217 (2d Cir. 2014) (per curiam) (“[A] pro se litigant’s claim should be dismissed for failure to prosecute ‘only when the circumstances are sufficiently extreme.’” (quoting *LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001))).

Petitioner shall have until August 1, 2024 to file an opposition to Respondent’s motion to dismiss. The Court cautions Petitioner that failure to oppose the motion to dismiss will result in his Petition being dismissed in its entirety, and that he must update his address of record to his current address so that the Court and Respondent can contact him.

The Clerk of Court is respectfully directed to mail a copy of this order to Petitioner at his address of record. Respondent is also directed to serve a copy of this order on Petitioner at any other known addresses or former addresses of Petitioner and to file a proof of service no later than July 10, 2024.

Dated: July 1, 2024
New York, New York

SO ORDERED.



JENNIFER L. ROCHON
United States District Judge